IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL Nos. 1432 to 1447 of 2006

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MAHENDRABHAI FULABHAI - Appellant
Versus
THE SPECIAL LAND ACQUISITION OFFICER & 1 - Respondents

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Appearance :
MR YN RAVANI for Appellant.
None for Respondents : 1 - 2.

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CORAM : HONOURABLE MR.JUSTICE J.M.PANCHAL
and
HONOURABLE MR.JUSTICE BANKIM.N.MEHTA

Date : 05/05/2006

ORAL ORDER

(Per : HONOURABLE MR.JUSTICE J.M.PANCHAL)

These appeals filed under Section 54 of the Land Acquisition Act, 1894 [“the Act” for short] read with Section 96 of the Code of Civil Procedure, 1908, are directed against common judgment and award dated January 31, 1994, rendered by the learned Assistant Judge, Bharuch, in Land Acquisition Reference Nos.121 of 1985 to 136 of 1985, by which the Reference Court has awarded additional compensation to the claimant/s at the rate of Rs. 25/- per Are, over and above the compensation awarded by the Land Acquisition Officer at the rate of Rs. 115/- per Are for their acquired lands.

2. A proposal was received by the State Government for acquiring lands of village Raisangpara, Taluka : Jhagadia, District : Bharuch for the public purpose. After considering the said proposal, notification under Section 4(1) of the Act was issued, which was published in the Official-Gazette on October 19, 1983. The land owners were served with notices under Section 4 of the Act. They had filed their objections against the proposed acquisition. After considering their objections, the report as envisaged by Section 5A(2) of the Act was forwarded to the State Government. After considering the said report, declaration under Section 6 of the Act was issued, which was published in the Official-Gazette on February 6, 1984. The interested persons were thereafter served with notices for determination of compensation of their lands. The claimants appeared before the Special Land Acquisition Officer and claimed compensation at the rate of Rs.500/- per Are. However, having regard to the materials placed before him, the Special Land Acquisition Officer offered compensation at the rate of Rs. 115/- per Are for irrigated lands and Rs. 85/- per Are for non-irrigated lands. The claimants were of the opinion that the offer of compensation made by the Special Land Acquisition Officer was inadequate. Therefore, they

submitted written applications requiring the Special Land Acquisition Officer to refer the matters to the Reference Court for determination of compensation payable to them. Accordingly, references were made which were registered as noticed earlier.

3. On behalf of the claimants, two witnesses were examined i.e. Chaturbhai Nagjibhai at Exh.29 and Chhitabhai Hirabhai Patel at Exh.51. It may be mentioned that initially an attempt was made by the claimants to claim compensation on yield basis, but, because of paucity of evidence adduced by the claimants, Reference Court did not determine market value of the lands acquired on yield basis. However, the parties had produced two sets of sale instances i.e. one consisting of sale-deeds of the lands situated at village Umalla; and another consisting of sale-deeds relating to this very village. In view of decision of the Supreme Court in **Bangaru Narasingha Rao Naidu v. Revenue Divisional Officer, Vizianagaram, (1980)1 SCC 575**, the Reference Court deduced that best evidence for determining market value of the acquired lands was available in the form of transaction of sale-deeds in respect of lands of this very village and furnished good guidance for determining market value of the lands acquired in the instant case.

Accordingly, the Reference Court placed reliance on the sale-deeds pertaining to the lands of this very village and determined the market value of the lands by judgment and award dated January 31, 1994, giving rise to the instant appeals.

4. Mr.Y.N.Ravani, learned counsel for the claimants, contended that the Reference Court committed error in not placing reliance on the sale-deeds relating to village Umalla and, therefore, the impugned award should be set aside. It was argued that village Umalla and village Shir are adjoining village Raisangpara, which is quite evident from the map produced at Exh.50 and, therefore, the Reference Court was not justified in ignoring the sale-deeds relating to lands of village Umalla. What was maintained before the Court was that potentiality of the lands was not taken into consideration by the Reference Court while determining market value of the lands acquired and, therefore, the appeals should be entertained. It was argued that the Reference Court has committed gross error in not relying upon Exhs.53 & 77, which were sale-instances relating to lands of village Umalla and, therefore, the instant appeals should be entertained. In support of his arguments, the learned counsel placed reliance on the

decisions rendered in **(i) Special Land Acquisition Officer, Bharuch vs. Motibhai Mohanbhai, 1997(2) GLH 773, and (ii) Hasanali Walimchand (Dead) by Lrs vs. State of Maharashtra, (1998)2 SCC 388.**

5. This Court has heard Mr.Y.N.Ravani, learned counsel for the appellants, at length and in great detail. As is evident from the impugned award, two sets of sale-deeds were produced for consideration of the Reference Court. However, the Reference Court has preferred to place reliance on the sale-deeds relating to this very village for the purpose of determining market value of the lands acquired in the instant cases. It may be mentioned that in **Ambalal Mansukhram Joshi v. Additional Special Land Acquisition Officer, AIR 1968 Gujarat Page-5,** it has been held by the Division Bench of this Court that best method for determination of true market price of a plot of land is to base it on instance of sale of the same land or a portion of it at about the same time. It is further held by the Division Bench that the next best method is to look for other instances comparable in time and quality. Again, in **Bangaru Narasingha Rao Naidu** (supra), the Supreme Court has authoritatively ruled that the best evidence for determining market value of the acquired lands is

authentic transaction of sale in respect of the very acquired lands. Normally, sale instances relating to the same village would furnish best guidance for determining market value of the lands acquired from the very same village. Under the circumstances, this Court is of the opinion that the Reference Court did not commit any error in placing reliance on the sale-deeds relating to village Raisangpara. It is not true to contend that the sale-instances produced on the record of the case relating to lands of village Umalla were totally ignored by the Reference Court. The Reference Court has taken into consideration those sale deeds and concluded that they were not relevant for the purpose of determining the market value of the lands acquired from village Raisangpura as sale deeds relating to the lands of village Raisangpura itself were available on the record of the case. This is quite evident from the discussion made by the Reference Court in Paragraphs 17 & 18 of the impugned Award. Further, in view of time-gap between the sale-deeds produced for consideration of the Reference Court and issuance of notification under Section 4(1) of the Act, the Reference Court has also given rise in price of land for two years. Thus, this Court finds that correct principles of law have been applied to the proved facts and thereafter compensation payable to the

claimant/s has been determined. It may be mentioned that the lands acquired were irrigated lands. The rise in price of the lands, which is considered by the Reference Court, would include potentiality of the lands for better use of the lands in future. The judgments cited at the Bar by the learned counsel for the appellant turn on their own facts and do not apply to the facts of the instant cases. Therefore, detailed discussion of the same is avoided. Under the circumstances, this Court is of the opinion that no ground is made out by the learned counsel for the appellants to interfere with the impugned award. The appeals, which lack merits, cannot be entertained and are liable to be dismissed.

For the foregoing reasons, the appeals fail and are summarily dismissed.

[J.M.PANCHAL, J.]

[BANKIM N. MEHTA, J.]

(Patel)